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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,005	09/26/2001	Alan Edward Palmer	F7558(V)	1873

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UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,005

Applicant(s)

PALMER ET AL.

Examiner

Carolyn A Paden

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Potter's Food Science and Dorsey (3,194,670) taken together.

Potter discloses that intermediate moisture foods (IMF) are typically dried to a moisture content of 20-50% (see page 240). Vegetables are included as good candidates for IMF processing. Potter also discloses the degrees of preservation of foods with heat (see page 138-140). The reference discloses how to create pasteurizing conditions in foods. Dorsey teaches a method for dehydrating foods that includes all of the steps that are set forth in claim 1. In example 2, frozen cross-cut green beans are dehydrated from 90% to 2% in about 40 minutes in heated coconut oil at a vacuum pressure of 1-3 inches of mercury. Although Dorsey does not mention "salt" in his process, it is well known in the food industry that salt is typically added to processed vegetables to flavor them. Dorsey does not

[Handwritten signature]

use an IMF process in drying green beans. The claims appear to differ from the reference in the suggestion of the extent of water removed from the Dorsey product. It would have been obvious at the time of applicants' invention to utilize the process of Dorsey in the preparation of an IMF in order to provide for a vegetable product that has more water in it but is lower in fat. The final product would have also been expected to have a better texture because of the extent of water remaining in the product because. It is appreciated that the storage stability of the product is not shown but packaging a food product to enhance the storage life of foods is extremely well known to the ordinary consumer. And although the extent of fat and salt is not specifically shown in the reference, the amount of each of these ingredients could have been easily adjusted, according to individual tastes. Also onions were not specifically mentioned as a vegetable in Dorsey but would have been an obvious vegetable and/or food selection. Although pasteurization of green beans is not expressly stated in the references, one of ordinary skill in the art would have been able to achieve pasteurizing conditions with the teachings of the references before him.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter and Dorsey taken together as applied to claims 1-5, 9, 11-15 above, and as further evidenced by Bailey's, edited by Swern.

The claims appear to differ from the reference in the suggestion of the extent of liquid and solid fat in the fat phase. Bailey's teaches that coconut oil has a setting point of 21-23 C (69-73 F). On viewing the setting point of coconut oil, one of ordinary skill in the art would expect that the solid fat content of the oil would fall within the range that is set forth in the claims.

Claims 1-6 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arenson (2,976,153).

Arenson (2,976,153) discloses preparing potatoes. Figure 1 shows that the potatoes are washed, peeled, sliced, soaked and drained prior to cooking in oil, salting and packaging. At column 2, lines 34-37 the potatoes are disclosed contain 87-90% water. At column 1, lines 65-70 the moisture content of the potatoes, after frying, is stated to be at 3.5% and the fat content is shown to be at 45-50%. Since no specific amount of salt is suggested in the process, no weight is attached to the step of adding salt. The claims appear to differ in the recitation of the amount of moisture

removed in frying but to fry a food to remove 1.5% less water would have been within the determination of one of ordinary skill in the art with potatoes having variable moisture contents. Claim 6 appears to differ from the reference in the use of centrifugation to remove the soaked out starch and partially dry the potatoes. Centrifugation is a known method of separating different materials in the food industry. To separate the water from the potato by centrifugation would have been a known alternative to the draining step in within the determination of one having ordinary skill in the art that desired to drain the water from the potatoes prior to frying them.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is 703-308-3294. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7718.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


CAROLYN PADEN 7-8-03
PRIMARY EXAMINER
GROUP 1300- 1761